

EXHIBIT I

The South Carolina Court of Appeals

Jack Brooks and Ellen Brooks, on
behalf of themselves and all others
similarly situated,

Respondents,

v.

GAF Materials Corporation,

Appellant.

The Honorable J. Mark Hayes, II
Newberry County
Trial Court Case No. 2006-CP-36-00129

ORDER

Appellant GAF Materials Corporation appeals two orders: (1) an order granting class certification; and (2) an order granting partial summary judgment as to liability. Respondent moves to dismiss this appeal, arguing that under section 14-3-330 of the South Carolina Code (1976), the orders challenged on appeal are not final orders. Respondents contend this action involves multiple claims, which have not been resolved, and that the summary judgment order still leaves open the issue of damages and, therefore, is not a final order.

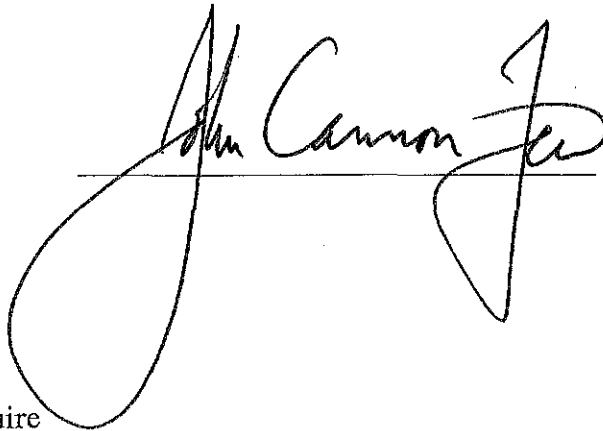
In response, Appellant argues section 14-3-330 permits appeals from any “intermediate judgment, order or decree in a law case involving the merits . . .” Appellant maintains the issue of liability “finally determine[s] some substantive matter forming the whole or part of some cause of action or defense;” therefore, the order is immediately appealable. Mid-State

Distributors, Inc. v. Century Importers, Inc., 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993)

(citations omitted). We agree, and deny the motion to dismiss.

As to whether the order granting class certification will be considered on appeal that decision rests with the panel ultimately deciding the appeal. See Morris v. Anderson County, 349 S.C. 607, 564 S.E. 649 (2002) (noting an appellate court “may, as a matter of discretion, consider an unappealable order along with an appealable issue where such a ruling will avoid unnecessary litigation”). Respondents shall address the appealability and merits of the order granting class certification in the Respondents’ initial brief. Appellant shall respond in its initial reply brief.

IT IS SO ORDERED.

A large, stylized handwritten signature in black ink, appearing to read "John Cannon". The signature is written over a horizontal line.

Columbia, South Carolina

cc: Gray T. Culbreath, Esquire
Joel A. Mintzer, Esquire
Gibson A. Solomons, III, Esquire
Daniel A. Speights, Esquire
Thomas H. Pope, III, Esquire

FILED
11/9/11